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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

1 **I. Introduction**

2 Plaintiffs hereby submit the following responses to Defendant's objections to Plaintiffs'
3 evidence submitted in support of their Motion for Summary Judgment.

4 **II. Legal Standard**

5 "A court may consider evidence that would be "admissible at trial." *Fraser v. Goodale*,
6 342 F.3d 1032, 1036 (9th Cir. 2003). But the evidentiary standard for admission at the summary
7 judgment stage is lenient: A court may evaluate evidence in an inadmissible form if the
8 evidentiary objections could be cured at trial. See *Burch v. Regents of Univ. of California*, 433 F.
9 Supp. 2d 1110, 1119–20 (E.D. Cal. 2006). In other words, admissibility at trial depends not on
10 the evidence's form, but on its content. *Block v. City of Los Angeles*, 253 F.3d 410, 418–19 (9th
11 Cir. 2001)." *Gomez v. City of Vacaville*, 483 F.Supp.3d 850, 860 (E.D. Cal. 2020).

12 **III. Response to Objection No. 1**

13 Defendant objects to paragraph 5 of the Declaration of Rocky Covarrubias as hearsay.

14 The statement is not being offered for the truth of the matter asserted, but rather to prove
15 what Mr. Covarrubias subjectively believed Plaintiffs credit scores were at the time they began
16 searching for a house.

17 **IV. Response to Objection Nos. 2–6**

18 Defendant objects to paragraphs 7, 8, 9, 11, and 13, of the Declaration of Rocky
19 Covarrubias as lacking personal knowledge, an improper lay opinion, and irrelevant.

20 Mr. Covarrubias makes these statement based on his own understanding of the facts at
21 the time he was assisting Plaintiffs in a mortgage preapproval, upon reviewing the documents
22 necessary for such a preapproval, and upon his personal knowledge as a mortgage banker. He
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1 has firsthand knowledge of such facts. Moreover, his statement is not being offered as an expert
2 opinion but rather a factual account of his perception of the events discussed therein.

3 Finally, “objections to evidence . . . [as] irrelevant, speculative, and/or argumentative, or
4 that it constitutes an improper legal conclusion are all duplicative of the summary judgment
5 standard itself.” *Burch v. Regents of the Univ. of Cal.*, 433 F.Supp.2d 1110, 1122 (E.D. Cal.
6 2006).

7 **V. Response to Objection Nos. 7–10**

8 Defendant objects to paragraphs 5–8 of the Declaration of John Andrews as irrelevant.

9 “[O]bjections to evidence . . . [as] irrelevant, speculative, and/or argumentative, or that it
10 constitutes an improper legal conclusion are all duplicative of the summary judgment standard
11 itself.” *Burch v. Regents of the Univ. of Cal.*, 433 F.Supp.2d 1110, 1122 (E.D. Cal. 2006).

12 **VI. Response to Objection No. 10**

13 Defendant objects to Plaintiffs’ Request for Judicial Notice exhibit showing historical
14 interest rates by week as hearsay and irrelevant.

15 Fed R. Evid. 803(8) explicitly exempts public records from the hearsay exclusion.
16 Moreover, Fed. R. Evid. 803(17) exempts “[m]arket quotations, lists, directors, or other
17 compilations that are generally relied on by the public or by persons in particular occupations,”
18 from the hearsay exclusion.

19 Finally, “objections to evidence . . . [as] irrelevant, speculative, and/or argumentative, or
20 that it constitutes an improper legal conclusion are all duplicative of the summary judgment
21 standard itself.” *Burch v. Regents of the Univ. of Cal.*, 433 F.Supp.2d 1110, 1122 (E.D. Cal.
22 2006).

1 **VII. Response to Objection Nos. 11–15**

2 Defendant objects to exhibits J, K, L, M, and N to the declaration of Matthew R. Snyder
3 as hearsay.

4 These are documents produced by Xactus, LLC in response to a subpoena in this matter.
5 Fed. R. Evid. 803(6) exempts business records made in the regular course of business from the
6 hearsay exclusion. Defendant’s hearsay objection can be cured at trial by having the custodian
7 of such documents testify as to the foundational elements of the business records exception.
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9 **VIII. Response to Objection Nos. 16–17**

10 Defendant objects to the errata sheets to Plaintiffs’ deposition transcripts as sham
11 declarations. For the reasons discussed in Plaintiffs’ Opposition to Defendant’s Motion for
12 Summary Judgment, they are not sham declarations and should not be excluded. *See* Pls.’ Opp.
13 to Def.’s Mot. for Summ. J. [ECF No. 36] at 8–9.

14 **IX. Response to Objection Nos. 18–19**

15 Defendant objects to certain deposition testimony from Plaintiffs as lacking personal
16 knowledge, improper lay opinion, and hearsay.

17 Plaintiffs make these statements based on their own understanding of the facts at the time
18 they were seeking to purchase a house. Moreover, Ms. Chavez explicitly testified that she
19 reviewed the documents discussed in said testimony. Plaintiffs have firsthand knowledge of such
20 facts. To the extent that the cited testimony does not itself establish personal knowledge, this
21 objection could be cured at trial with proper foundational questions. Moreover, these statements
22 are not being offered as an expert opinion but rather a factual account of Plaintiffs’ understanding
23 of the events described therein.

1 Finally, to the extent that Defendant objects Plaintiffs recounting certain statements made
2 to them by Mr. Covarrubias, the statements are not hearsay to the extent they are provided as
3 Plaintiffs' recollections of what was told to them. Moreover, the same statements are presently
4 before the Court in Mr. Covarrubias's own declaration.

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9 Dated: February 18, 2025

10 By: /s/ Matthew R. Snyder

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1 Filed electronically this 18th Day of February, 2025, with:

2 United States District Court CM/ECF system.

2 Notification sent electronically on this 18th Day of February, 2025, to:

3 Honorable Magistrate Judge Sheila K. Oberto

4 United States District Court

Eastern District of California

5 And all Counsel of Record as recorded on the Electronic Service List

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9 /s/ Matthew R. Snyder, Esq.

10 Matthew R. Snyder, Esq.

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**PLAINTIFFS' RESPONSE TO DEFENDANT'S OBJECTIONS TO PLAINTIFFS'
EVIDENCE**